

99TH CONGRESS
2D SESSION

S. 2015

To provide for the security of United States diplomatic personnel, facilities and operations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 21), 1986

Mr. LUGAR (by request) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for the security of United States diplomatic personnel, facilities and operations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SEC. 1. SHORT TITLE.

4 This Act may be cited as the "Diplomatic Security
5 Act".

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS.—The Congress finds and declares that—

8 (1) the United States has a crucial stake in the
9 presence of United States Government employees rep-
10 resenting United States interests abroad; and

1 (2) conditions confronting United States Govern-
2 ment employees and missions abroad are fraught with
3 security concerns which will continue for the foreseea-
4 ble future.

5 (3) the resources now available to counter acts of
6 terrorism and protect and secure United States Gov-
7 ernment employees and missions abroad, as well as for-
8 eign officials and missions in the United States, are in-
9 adequate to meet the mounting threat to such person-
10 nel and facilities.

11 (b) PURPOSES.—The purposes of this Act are—

12 (1) to set forth the responsibility of the Secretary
13 of State with respect to the security of diplomatic oper-
14 ations in the United States and abroad;

15 (2) to provide for an Assistant Secretary of State
16 to head the Bureau of Diplomatic Security of the De-
17 partment of State, and to set forth certain provisions
18 relating to the Diplomatic Security Service of the
19 Department of State;

20 (3) to maximize coordination by the Department
21 of State with Federal, State and local agencies, and
22 agencies of foreign governments in order to enhance
23 security programs;

24 (4) to promote strengthened security measures and
25 to provide for the accountability of United States Gov-

1 ernment employees with security-related responsibil-
2 ities; and

3 (5) to provide authorization of appropriations for
4 the Department of State to carry out its responsibilities
5 in the area of security and counterterrorism, and in
6 particular to finance the acquisition and improvements
7 of United States Government missions abroad, includ-
8 ing real property, buildings, facilities, and communica-
9 tions, information and security systems.

10 **TITLE I—DIPLOMATIC SECURITY**

11 **SEC. 101. RESPONSIBILITY OF THE SECRETARY OF STATE.**

12 (a) **SECURITY FUNCTIONS.**—The Secretary of State
13 shall develop and implement in consultation with other agen-
14 cies having personnel or missions abroad, within the scope of
15 the resources made available, policies and programs, includ-
16 ing funding levels and standards to provide for the security of
17 United States Government operations of a diplomatic nature
18 and foreign government operations of a diplomatic nature in
19 the United States, to include—

20 (1) protection of all United States Government
21 employees on official duty abroad, other than those
22 under the command of a United States area military
23 commander, and their accompanying dependents;

24 (2) establishment and operation of security func-
25 tions at all United States Government missions abroad,

1 other than facilities or installations subject to the con-
2 trol of a United States area military commander;

3 (3) establishment and operation of security func-
4 tions at all Department of State facilities in the United
5 States; and

6 (4) protection of foreign missions, international or-
7 ganizations and foreign officials, and other foreign per-
8 sons in the United States, as authorized by law.

9 (b) ASSISTANCE.—Other Federal agencies through
10 agreements shall cooperate to the maximum extent possible
11 with the Department of State and may—with or without re-
12 imbursement—provide assistance to the Department, per-
13 form security inspections and provide logistical support relat-
14 ing to the differing missions and facilities of other agencies,
15 and perform other overseas security functions as may be au-
16 thorized by the Secretary of State, to facilitate fulfillment of
17 the responsibilities described herein. Specifically, the Secre-
18 tary of State may agree to delegate operational control of
19 overseas security functions of other Federal agencies to the
20 heads of such agencies, subject to the Secretary's authority
21 as set forth in subsection (a) and provided that the agency
22 head receiving such delegated authority shall be responsible
23 to the Secretary of State in the exercise of the delegated
24 operational control. Upon request and with or without reim-
25 bursement, the Department of State may provide training as-

1 sistance and related equipment to host government personnel
2 assigned to protect United States Government employees and
3 missions abroad.

4 (c) CHIEF OF MISSION.—Nothing contained herein
5 shall be construed to limit or impair the authority or responsi-
6 bility of a chief of mission under section 207 of the Foreign
7 Service Act of 1980, as amended (22 U.S.C. 3927).

8 (d) OTHER AGENCIES.—Nothing contained herein shall
9 be construed to limit or impair the authority or responsibility
10 of any other Federal, State, or local agency with respect to
11 law enforcement or domestic security operations, as con-
12 firmed by sections 125 and 126 of Public Law 99-93 (99
13 Stat. 416-418) or with respect to intelligence activities as
14 defined in Executive Order 12333, or successor orders, and
15 intelligence personnel and information associated therewith.

16 (e) CERTAIN LEASE ARRANGEMENTS.—The Adminis-
17 trator of General Services is authorized to lease up to two
18 hundred and fifty thousand square feet in the United States
19 for the Department of State to accommodate the personnel
20 required to carry out the purposes of this Act. The Depart-
21 ment of State shall pay for such space at the rate established
22 by the Administrator of General Services for space and
23 related services.

1 SEC. 102. BUREAU OF DIPLOMATIC SECURITY.

2 (a) ASSISTANT SECRETARY.—The Bureau of Diplo-
3 matic Security of the Department of State shall be headed by
4 an Assistant Secretary of State.

5 (b) NUMBER OF ASSISTANT SECRETARIES.—The first
6 section of the Act entitled “An Act to strengthen and im-
7 prove the organization and administration of the Department
8 of State, and for other purposes,” approved May 26, 1949
9 (22 U.S.C. 2652), is amended by striking out “fourteen” and
10 inserting in lieu thereof “fifteen”.

11 (c) POSITIONS AT LEVEL IV OF THE EXECUTIVE
12 SCHEDULE.—Section 5315 of title 5, United States Code, is
13 amended by striking out “(14)” following “Assistant Secre-
14 taries of State” and inserting in lieu thereof “(15)”.

15 SEC. 103. DIPLOMATIC SECURITY SERVICE.

16 (a) DIRECTOR.—The Diplomatic Security Service of the
17 Department of State shall be headed by a Director designat-
18 ed by the Secretary of State. The Director shall be a member
19 of the Senior Foreign Service or the Senior Executive Serv-
20 ice and shall be qualified for the position by virtue of demon-
21 strated ability in the area of security, law enforcement, man-
22 agement or public administration. Experience in management
23 or operations at overseas diplomatic posts shall be considered
24 an affirmative factor in the selection of the Director. The
25 Director shall act under the supervision and direction of an
26 Assistant Secretary of State.

1 (b) **ASSIGNMENT AND APPOINTMENT.**—Positions in the
2 Diplomatic Security Service shall be filled in accordance with
3 the provisions of the Foreign Service Act of 1980, as amend-
4 ed (22 U.S.C. 3901 et seq.), and title 5, United States Code.
5 The Secretary of State shall prescribe the qualifications re-
6 quired for assignment or appointment to such positions. In
7 the case of positions designated for Special Agents, the quali-
8 fications may include minimum and maximum entry age re-
9 strictions and other physical standards, and shall incorporate
10 such standards as may be required by law in order to perform
11 security functions, to bear arms and to exercise investigatory,
12 warrant, arrest and such other authorities as are available by
13 law to Special Agents of the Department of State and the
14 Foreign Service. The regulations to be prescribed by the Sec-
15 retary with respect to such Special Agents, pursuant to sec-
16 tion 37 of the State Department Basic Authorities Act of
17 1956 (22 U.S.C. 2709), may provide for such special discipli-
18 nary procedures as are deemed necessary to carry out the
19 purposes of this Act.

20 (c) **FUNCTIONS.**—The Diplomatic Security Service shall
21 perform such functions as may be assigned to it by the Secre-
22 tary of State.

1 TITLE II—PERFORMANCE AND ACCOUNTABILITY

2 SEC. 201. ACCOUNTABILITY REVIEW.

3 In any case of serious injury, loss of life or significant
4 destruction of property at or related to a United States Gov-
5 ernment mission abroad which is covered by the provisions of
6 this Act (other than a facility or installation subject to the
7 control of a United States area military commander), the
8 Secretary of State shall convene an Accountability Review
9 Board (hereinafter in this title referred to as the "Board"):
10 *Provided, however,* That no such Board shall be convened
11 where the Secretary determines that a case clearly involves
12 only causes unrelated to security, or that a case clearly in-
13 volves no breach of duty by a United States Government
14 employee.

15 SEC. 202. ACCOUNTABILITY REVIEW BOARD.

16 (a) MEMBERSHIP.—The Board shall consist of not less
17 than three nor more than five members, including a Chairper-
18 son, designated or appointed by the Secretary of State. The
19 Director of Central Intelligence is authorized to designate a
20 member. In cases where intelligence sources and methods are
21 involved, the Secretary of State and the Director of Central
22 Intelligence shall jointly designate the members of the Board.

23 (b) FACILITIES, SERVICES, SUPPLIES AND STAFF.—

24 (1) SUPPLIED BY DEPARTMENT OF STATE.—The
25 Board shall obtain facilities, services and supplies

1 through the Department of State. All expenses of the
2 Board, including necessary costs of travel, shall be paid
3 by the Department of State. Travel expenses author-
4 ized under this subsection shall be paid in accordance
5 with subchapter 1 of chapter 57, title 5 of the United
6 States Code, or other applicable law.

7 (2) **DETAIL.**—At the request of the Board, em-
8 ployees of the Department of State or other Federal
9 agencies, members of the Foreign Service or uniformed
10 members of the military services may be temporarily
11 assigned, with or without reimbursement, as staff em-
12 ployees for the Board. Upon request, an inspector gen-
13 eral of the Department of State may provide assistance
14 to the Board.

15 (3) **EMPLOYEES, EXPERTS AND CONSULT-**
16 **ANTS.**—The Board may appoint and fix the pay of
17 such other employees and may employ and compensate
18 experts and consultants in accordance with section
19 3109 of title 5 of the United States Code, who shall be
20 responsible solely to the Board, as the Board considers
21 necessary to carry out its functions.

22 **SEC. 203. PROCEDURES.**

23 (a) **EVIDENCE.**—The Board is authorized to administer
24 oaths and affirmations and require that depositions be given
25 and interrogatories answered. The Board may issue or au-

1 thorize the issuance of a subpoena for the attendance and
2 testimony of witnesses, who are not employees of Federal
3 agencies, and the production of documentary or other evi-
4 dence from any person, who is not an employee of a Federal
5 agency, or entity in such instances where the Board finds
6 that such a subpoena is necessary in the interests of justice
7 for the development of relevant, admissible evidence. In the
8 case of contumacy or refusal to obey a subpoena issued under
9 this section, a court of the United States within the jurisdic-
10 tion of which a person is directed to appear or produce infor-
11 mation, or within the jurisdiction of which the person is
12 found, resides, or transacts business, may upon application of
13 the Attorney General, issue to such person an order requiring
14 such person to appear before the Board to give testimony or
15 produce information as required by the subpoena. Subpoe-
16 naed witnesses shall be paid the same fee and mileage allow-
17 ances which are paid subpoenaed witnesses in the courts of
18 the United States. Nothing contained herein shall be con-
19 strued to require that the Attorney General release any infor-
20 mation to the Board unless the Attorney General determines
21 that such release will not seriously impair any pending crimi-
22 nal investigation or prosecution.

23 (b) CONFIDENTIALITY.—The Board shall adopt for ad-
24 ministrative proceedings under this title such procedures with
25 respect to confidentiality as may be deemed necessary, in-

1 cluding procedures relating to the conduct of closed proceed-
2 ings or the submission and use of evidence in camera, to
3 ensure in particular the protection of classified information
4 relating to national defense, foreign policy or intelligence
5 matters. The Director of Central Intelligence shall establish
6 the level of protection required for intelligence information
7 and for information relating to intelligence personnel, includ-
8 ing standards for secure storage.

9 (c) RECORDS.—Records pertaining to administrative
10 proceedings under this title shall be separated from all other
11 records of the Department of State, and shall be maintained
12 under appropriate safeguards to preserve confidentiality and
13 classification of information. Such records shall be prohibited
14 from disclosure to the public until such time as the Board
15 completes its work and is dismissed. The Department of
16 State shall turn over to the Director of Central Intelligence
17 intelligence information and information relating to intelli-
18 gence personnel which shall then become records of the Cen-
19 tral Intelligence Agency. After that time, only such exemp-
20 tions as apply to other records of the Department of State
21 under said section 552(b) shall be available for the remaining
22 records of the Board.

23 (d) STATUS OF BOARD.—The provisions of sections 1-
24 14 of title 5 appendix of the United States Code and section

1 552b of title 5 of the United States Code shall not apply to
2 an Accountability Review Board.

3 SEC. 204. FINDINGS.

4 The Board convened in any case shall make written
5 findings determining—

6 (1) whether there are reasonable grounds to be-
7 lieve that the injury, loss of life or destruction of prop-
8 erty with respect to which the Board was convened
9 was security-related; and

10 (2) whether there is reasonable cause to believe
11 that a breach of duty by a United States Government
12 employee contributed to such injury, loss of life or de-
13 struction of property.

14 In making its findings, the Board shall take into account such
15 standards of conduct, statutes, rules, regulations, instructions
16 and other sources as may have been pertinent to the perform-
17 ance of work and official duties.

18 SEC. 205. PROGRAM RECOMMENDATIONS.

19 The Board shall make recommendations as appropriate
20 to improve the efficiency, economy, suitability or security of
21 any program or operation subject to this Act which the Board
22 has reviewed. In particular, the Board shall make recommen-
23 dations as appropriate to promote security awareness and in-
24 dividual accountability for security programs.

1 SEC. 206. DISCIPLINARY PROCEEDINGS.

2 (a) NOTICE.—In any case in which the Board makes an
3 affirmative finding of reasonable cause under section 204, it
4 shall promptly notify the employee concerned. The Board at
5 the same time shall notify the head of the employing agency
6 or the military service involved and recommend that an ap-
7 propriate investigatory or disciplinary proceeding be initiated.

8 (b) RECORD.—The Board shall transmit to the Secre-
9 tary, head of other employing agency, or head of military
10 service as the case may be a certified copy of the record of
11 the proceeding, which shall be part of the official record for
12 all purposes of any disciplinary action against the employee
13 concerned.

14 SEC. 207. CERTAIN AGENCY ACTIONS.

15 (a) ADMINISTRATIVE LEAVE.—Following notification
16 to an employee of an affirmative finding of reasonable cause
17 under section 204, that employee may be placed on adminis-
18 trative leave for such period or periods as the Secretary of
19 State, the head of the employing agency if other than the
20 Department of State, or head of military service determines
21 to be consistent with the interests of the United States.

22 (b) DISCIPLINARY ACTION.—Not later than thirty days
23 after a disciplinary recommendation is made by the Board
24 pursuant to section 206, the Secretary of State, the head of
25 the employing agency if other than the Department of State,
26 or head of military service shall initiate or take such action as

1 is deemed appropriate and shall report to the Board on such
2 action.

3 SEC. 208. TRANSMISSION OF REPORTS.

4 The Board shall promptly transmit to the Secretary of
5 State all findings, decisions and recommendations made pur-
6 suant to sections 204 through 206 and reports received under
7 section 207(b). The Secretary of State shall promptly report
8 to the appropriate committees of the Congress on all recom-
9 mendations of the Board, as well as on any action taken with
10 respect to such recommendations.

11 SEC. 209. RELATION TO OTHER PROCEEDINGS.

12 (a) FOREIGN SERVICE GRIEVANCES.—Notwithstanding
13 any other provision of law, no action taken with respect to a
14 member of the Foreign Service in accordance with this title
15 shall be considered grounds for a grievance action under
16 chapter 11 of the Foreign Service Act of 1980, as amended
17 (22 U.S.C. 4131–4140).

18 (b) REVIEW ABILITY.—Nothing in this Act shall be
19 construed to create administrative or judicial review remedies
20 or rights of action. Determinations by the Secretary of State
21 under section 201 of this Act shall not be reviewable in any
22 court.

1 **TITLE III—AUTHORIZATION OF**
2 **APPROPRIATIONS**

3 **SEC. 301. AUTHORIZATION.**

4 **(a) SECURITY ENHANCEMENT PROGRAM.**—In addition
5 to amounts otherwise authorized to be appropriated, there
6 are authorized to be appropriated to the Department of State
7 for “Administration of Foreign Affairs” for the purposes of
8 this Act such sums as may be necessary for fiscal year 1986,
9 and for fiscal year 1987. Within the scope of total funds
10 available for security, the Department of State shall ensure
11 that equitable funding levels are provided and that, where
12 appropriate, specific amounts are identified for the overseas
13 security of other foreign affairs agencies on an annual basis.

14 **(b) COUNTER-TERRORISM RESEARCH AND DEVELOP-**
15 **MENT.**—There are authorized to be appropriated to the De-
16 partment of State for antiterrorism research and development
17 such sums as may be necessary for fiscal year 1986.

18 **SEC. 302. FOREIGN BUILDINGS PROGRAM.**

19 In the implementation of any foreign buildings program
20 funded from amounts authorized by section 301, the Foreign
21 Buildings Office of the Department of State shall utilize, to
22 the maximum extent possible, American contractors from the
23 private sector.

○